

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

<p>FUSION ELITE ALL STARS, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>VARSITY BRANDS, LLC, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 2:20-cv-02600-SHL-tmp</p> <p>JURY TRIAL DEMANDED</p>
<p>JONES, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>BAIN CAPITAL PRIVATE EQUITY, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 2:20-cv-02892-SHL-tmp</p> <p>JURY TRIAL DEMANDED</p>

**NOTICE OF SUPPLEMENT TO JOINT PLAINTIFFS' MOTION TO MODIFY EXPERT
DISCOVERY DEADLINES**

Plaintiffs submit as supplemental support for their Motion to Modify the Expert Discovery Deadlines (Case 2:20-cv-02600-SHL-tmp, ECF 251) (the “Joint Extension Motion”) Chief Magistrate Judge Pham’s Order compelling non-party Rebel Athletic Inc. (“Rebel”) to produce transactional apparel data in 28 days, on May 26, 2022 (attached as Exhibit A). (Case 2:20-cv-02600-SHL-tmp, ECF 252 at 20).¹ This production date is after the current May 18, 2022 deadline for the *Fusion Elite* and *Jones* Plaintiffs to serve their opening expert reports. *See* Case 2:20-cv-02600-SHL-tmp, ECF No. 175. Chief Magistrate Judge Pham recognized that “the

¹ Chief Magistrate Judge Pham’s Order was in response to *Fusion Elite* Plaintiffs’ Subpoena to Rebel and subsequent July 9, 2021 Motion to Compel.

movants were diligent in filing the present motion against Rebel. However, any requests to extend the expert disclosure deadline would need to be raised through a separate motion.” (ECF 252 at 21). Magistrate Judge Pham also recognized that “[g]iven the significance of the issues in the action, the large amount in controversy, the difficulty in obtaining comparable sales data, and the centrality of the information to an entire subset of *Fusion Elite*’s claims, the undersigned finds that *Fusion Elite* has demonstrated that the requested transactional data is relevant and necessary” *Id.* at 19. In short, the Chief Magistrate Judge’s Order requires Rebel to produce its transactional apparel data after the deadline for submission of Plaintiffs’ expert reports, which reports will need to analyze that data. The foregoing constitutes extraordinary circumstances and provides further support for Plaintiffs’ Joint Extension Motion, which requests, *inter alia*, that the opening expert report deadline move from May 18, 2022 to June 27, 2022, but which does not alter any existing deadlines for filings with the Court.

Dated: April 28, 2022

Respectfully submitted,

By: /s/Victoria Sims

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